In the High Court of Punjab and Haryana, Chandigarh.

Civil Revision No. 6184 of 2007

Date of Decision: 11.12.2007

Mangat Ram and Another

…Petitioners

Versus

Prem Nath

…Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mrs. Rahish Pahwa Dudeja, Advocate
for the petitioners.

RAJESH BINDAL, J.

The tenants are in revision petition before this Court against the order dated September 29, 2007 passed by learned Appellate Authority, Kaithal, whereby the order dated February 22, 2007 passed by learned Rent Controller, Kaithal, was reversed and eviction of the petitioners was ordered.

The eviction petition was filed by the respondent on two grounds namely, non payment of rent and the tenants having ceased to occupy the building. The shop in question along with one chaubara was rented out to the petitioners/tenants in 1984 at a monthly rent of Rs. 850/-, which was increased upto Rs. 1,031.50 ps. per month. In the petition filed on January 27, 2003, it was stated that shop was lying closed since January 1, 2002. The claim set up by the respondent/landlord was accepted in the light of the facts on record to the effect that the petitioners have not been able to controvert the contentions of the landlord. The case set up by the petitioners in defence was that earlier they used to run dhaba in the premises and now they are carrying on the business of mobile phones. However, in cross-examination, they were not able to tell as to when the Value Added Tax came into force and did not even produce bill books, account books, sales tax numbers etc. It is further noticed that the bills were not produced by the petitioners in spite of orders by the learned Rent Controller. Still further even this was not stated as to in what capacity the business was being carried out, namely, partnership firm or sole proprietorship firm. The partnership deed, which was produced,

did not belong to the firm, which was allegedly carrying on the business in the shop. The petitioners in defence raised issues namely that the landlord was out to adopt all means by filing different applications taking different grounds for evicting the petitioners from the shop in dispute. It further came on record that the petitioners have five other shops with them in which they could very well shift their business and there was no good reason for them to continue with the possession of the shop of the respondent/landlord. In evidence, it has come on record that the registration of the firm under the Sales Tax Act projected by the petitioners stood cancelled on March 31, 2002. Though the document was marked but still the factum is not disputed. The account books, which were produced by the petitioners, were merely typed copies of the account statements prepared and no regular account books were maintained by them.

The electricity bill produced by the petitioners is for the year 2004 pertaining to payment of arrears and some current charges. In the present case, it is not merely weaknesses in the evidence led by the petitioners, which has resulted in the order of eviction rather the positive case of the respondent/landlord is that the petitioners had ceased to occupy the premises for more than statutory period of four months. Rather in rebuttal, the petitioners have not been able to lead any cogent evidence to dislodge the claim.

The object of Rent Laws was to give some reasonable protection from eviction to the tenants at the hands of the landlords without there being any reasonable cause. But it does not mean that a landlord cannot get back possession of his property from the tenants for all times to come and the tenants can acquire new properties but will not shift his business in those and would like to retain possession of the tenanted premises by paying small rent. This would be totally unreasonable.

Under these circumstances, in my opinion, no illegality has been committed by learned Appellate Authority, Kaithal, ordering eviction of the petitioners form the shop in dispute.

Accordingly, the present petition is dismissed.

(Rajesh Bindal)
Judge

December 11, 2007
"DK"